

To

Mr. Hector Duran
United States Trustee (Depart of Justice)
Trial Attorney

Subject: JC Penney bankruptcy - Case No. 20-20182

Respected Sir,

My name is Rahul Shekatkar. I'm an individual shareholder with JC Penney who is caught on the wrong side of this unprecedented bankruptcy case with JC Penney. We joined into the Status call on May 28th and were able to get an update from the attorneys.

It was heartwarming and emotional to hear the Judge speak and help the shareholders and take the time to educate us on some of the basic fundamental of the bankruptcy proceeding. He called on my name, but I was on mute and hence couldn't speak, and I really appreciated him giving us a chance to speak to him and present our concerns. We will be planning to do so collectively in the next few weeks but to do so, we need some help from you. We are individual shareholders with no professional help or representation and are putting together some of these details based on our individual research.

We really appreciate you standing up for us and when the Judge asked you to confirm you availability to connect with us, you assured not only the Judge but also comforted millions of shareholders who are desperately looking for a glimmer of hope. Your message was very comforting and very powerful, and it uplifted the hopes and sprits of hundreds of shareholders who were on the call that day.

I have put together a letter of request to you (attached PowerPoint slides for your review. Hope you wouldn't mind the structure and the formalism I'm supposed to follow in such letters). If possible, the PowerPoint can be best viewed in the presentation mode as it will animate and show the movement of shareholders asset from current entity to the new entity in utmost clarity.

Looking forward for your feedback.

Links:

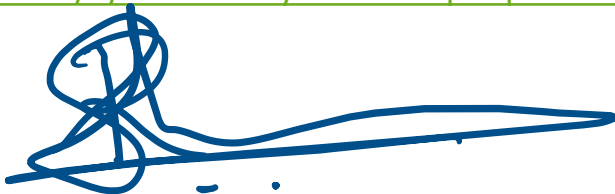
Letter to you (PowerPoint slide) : https://1drv.ms/p/s!AtGUC3iy90hcnPYJWMMct_OqAtHRow?e=ugMcDj

Docket 319: <https://1drv.ms/b/s!AtGUC3iy90hcnPYIqvzXp08FZY33oA?e=mps9JN>

Thanks again !

Regards

Rahul Shekatkar
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SHAREHOLDERS LETTER OF REQUEST TO US TRUSTEE

Shareholders Summary of Concerns:

Letter of request to US Trustee

Mr. Hector Duran

- Chapter 11 - Bankruptcy eligibility test.
- Debt to Asset ratio comparison across other Retailers/ Peers
- 2019 Fiscal year Balance Sheet (Please note the debt v/s assets ratio as of end of Feb)
- JC Penney's Debt v/s Asset summary from original Petition and Docket 25.
- Balance sheet projections as of petition date (Based on the petition details)
- Projections of JC Penney's Assets break down
- JCP Shareholders Asset transfer **simulation** to Prop-co and Op-co as is w/o BK
- JC Penney Shareholder's Assets in Prop-co as is w/o BK
- JC Penney Shareholder's Assets in Op-co as is w/o BK
- Current JCP shareholders Valuation of the Prop-co and Ops-Cos assets
- Conclusion
- Explore Potential legal criminal actions against JCP management for submitting a fraudulent case.

Link to this PowerPoint to view it in presentation mode for visual simulation of Shareholders asset movements from current entity to the new Props / Ops Co:

https://1drv.ms/p/s!AtGUC3iy90hcnPYJWMMct_OqAtHRow?e=ugMcDj

Chapter 11 Bankruptcy Eligibility Test

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What is Bankruptcy:

- **Total debt liability exceeds current assets and the debtor is insolvent.**
- Debt burden is unmanageable and hence either liquidate the assets (Chapter 7) to partially or fully satisfy creditors interest in debtors secured assets and dissolve the entity post liquidation OR
- Chapter 11: Restructure the debt and restructure the operations where creditors forego partial or full interest in debt liability in lieu for equity interest or Lien interest in the newly organized entity.

Has JC Penney met the above eligibility test to file for Chapter 11 Bankruptcy:

- Total JCP assets = **\$ 8,568,659,386** (Docket 1, page 6)
- Total Debt (including unsecured debt) = **\$ 4,918,000,000** (Docket 25, page 38).
(Note there are additional operational costs and they cannot be accounted as debt)
Thus Total assets – Total debt = [\$ 8,568,659,386 - \$ 4,918,000,000] = **\$ 3,650,659,386**

JC Penney is not insolvent and thus has not met the eligibility test to file for bankruptcy:

- JC Penney's Debt does not exceed its assets. Debt to asset ratio = $(4.918 / 8.569) = 57\%$.
- JC Penney already has 2 offers on the table to leverage the available shareholders equity and seek for debt financing and still be solvent (Docket 25, page 11) . E.g. Macy's took \$1.3B in debt financing last week and have a strategy to face the current pandemic situation. Macy's is not scamming its equity holders and wiping out their interest, but instead its leveraging the assets it has to secure additional debt financing. **With the 2 offers on the table, JCP also has a similar option to secure the additional funding and payoff the debt as it resumes its operations once the stores open.** Please note: Even after the additional Debt, JCP will still be solvent. (Loans are still going to be approx. 70% LTV of unencumbered assets i.e. left with 30% equity)
- JC Penney may have high debt burden but is not insolvent.
- **Reducing the long term debt liability at the expense of existing shareholders is not a valid argument for filing bankruptcy (Chapter 11 restructure).**
 - Instead they need to aggressively cut cost and operate within their means, reduce executive compensation and frivolous expenditure and bring the costs and debt under control as the appropriate strategy vs Bankruptcy for which they are not even eligible for.
 - Else every public company listed on NYSE will file for bankruptcy and wipe out the shareholder equity and re-organize as its convenient to wipe out Billions of unsecured shareholders equity and start clean slate and keep doing this over and over again.

JC Penney's case will set a wrong precedence for up coming bankruptcies and will give incentive to corporations to wipe out unsecured shareholders equity even when they have a significant positive equity (i.e acceptable Debt / Asset ratio)

Debt to Asset ratio comparison across Peers

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	Burlington Stores	Home depot	BJs Wholesale	TJ MAX	Hudson Bay	JC Penney	Dollar Tree	Nordstrom	Big lots	Ross Store	Kohls	Macys	Target
Debt to Asset ratio	75%	71%	66%	65%	57%	57%	51%	49%	48%	46%	40%	37%	32%

Debt to Asset Ratio = (Total Debt) / (Total Assets).

JC Penney's Debt to Asset ratio is directionally in line with its Peer. Not too high and not too low.

Note:

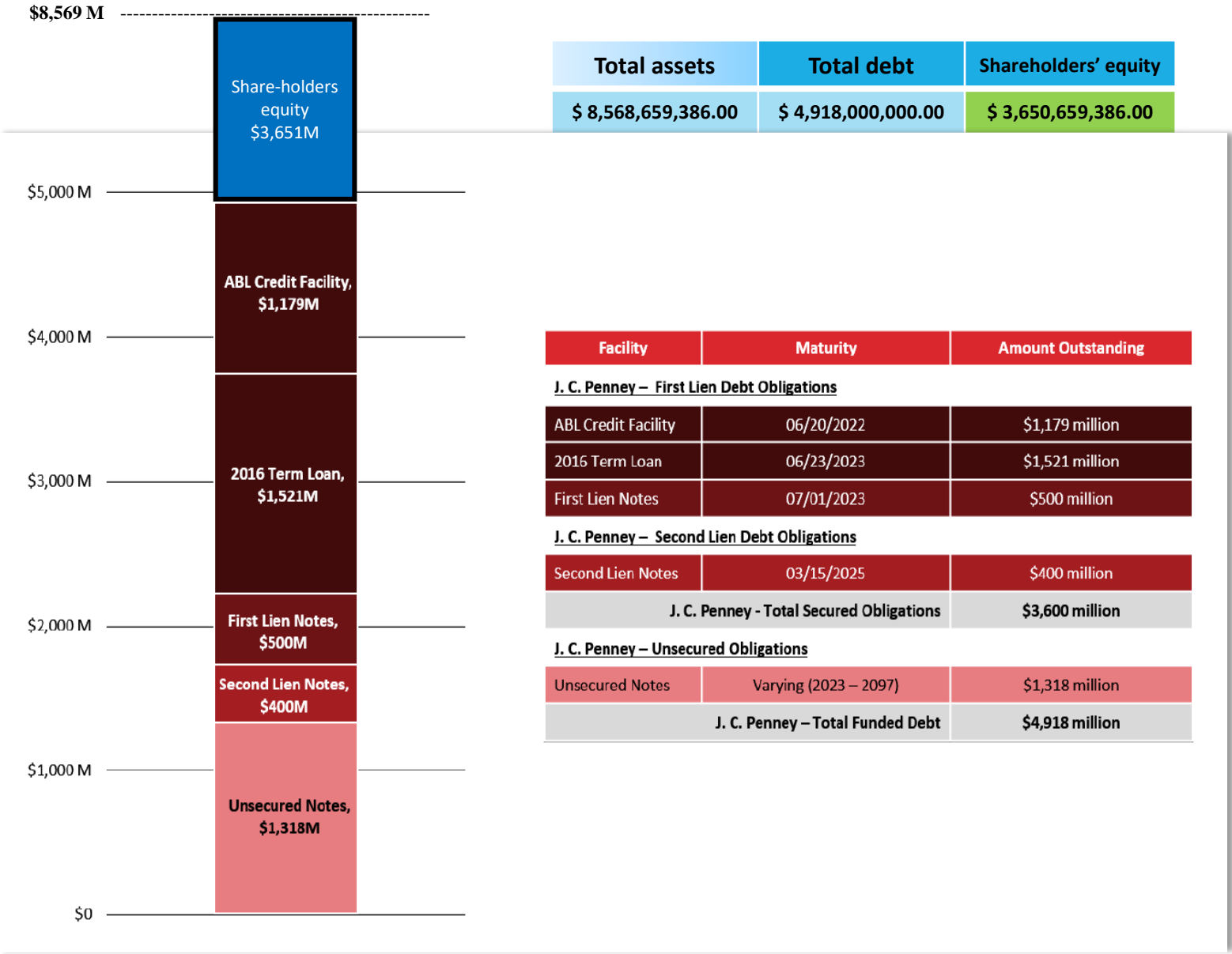
- Burlington stores, Home depot, BJ's Wholesale, TJ Max, Hudson Bay, Dollar Tree, Nordstrom, Big lots, Ross Stores etc. are **not** filing for bankruptcy to restructure their debt and wipe out the shareholders. Instead they are working smartly to control their costs and operate efficiently.
- **They are operating under moral and fiduciary obligations towards their shareholders and are trying to maximize the value for their shareholders.**
- JC Penney on the other hand, has a lower Debt to Asset ratio in comparison to some of its Peers and competitors. Thus its in a better financial situation , but its artificially creating a false narrative of panic and is artificially masking the situation and taking advantage of the pandemic situation and the shutdown to deceive the court (**as they know the court may not go through the financial details as they may not have the resources and time to review all these facts independently in detail**) and are taking advantage of the bankruptcy proceedings to profit from this situation and cheat the shareholders of their hard earned savings.
- There needs to be a limit to the corporate Greed and in a capitalist society, with so much of deregulation, the consumer protection policies have taken a back seat in favor of Greed and focusing on the short term goals and appeasement rather than focusing on the core issues and getting to the facts of difficult situations.
- **Shareholders request the Attorney to “The United States Trustee” and “Hon. Judge David Jones” to not allow for this corruption in their court and be fair and just and apply the rule of law governing the adjudication of such fraudulent cases and impose punitive actions on the perpetrators so that it acts as a deterrent for others from committing similar fraud.**

2019 Fiscal year Balance Sheet. (10Q from end of Feb)

- Total Assets = \$7.99 B
- Total Liability = \$7.16 B
- Shareholder equity = \$829 Million
- **Price / Share = \$2.59**

CONSOLIDATED BALANCE SHEETS - USD (\$)	\$ in Millions		Feb. 01, 2020	Feb. 02, 2019
Operating			\$ 67	\$ 0
Current assets:				
Cash in banks and in transit			108	109
Cash short-term investments			278	224
Cash and cash equivalents			386	333
Merchandise inventory			2,166	2,437
Prepaid expenses and other			174	189
Total current assets			2,726	2,959
Property and equipment, net			3,488	3,938
Operating lease assets			998	0
Prepaid pension			120	147
Other assets			657	677
Total Assets			7,989	7,721
Current liabilities:				
Merchandise accounts payable			786	847
Other accounts payable and accrued expenses			931	995
Current portion of finance leases and note payable			1	8
Current maturities of long-term debt			147	92
Total current liabilities			1,932	1,942
Operating			1,108	0
Long-term finance leases and note payable			0	204
Long-term debt			3,574	3,716
Deferred taxes			116	131
Other liabilities			430	558
Total Liabilities			7,160	6,551
Stockholders' Equity			\$ 829.00	\$ 1,170.00
Price / Share			\$ 2.59	\$ 3.66

JC Penney's Debt v/s Asset summary:



Balance sheet projections as of petition date:

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in Millions	Feb. 01, 2020	Feb. 02, 2019
Total Assets	7,989	7,721
Current liabilities:		
Merchandise accounts payable	786	847
Other accounts payable and accrued expenses	931	995
Current portion of finance leases and note payable	1	8
Current maturities of long-term debt	147	92
Total current liabilities	1,932	1,942
Operating	1,108	0
Long-term finance leases and note payable	0	204
Long-term debt	3,574	3,716
Deferred taxes	116	131
Other liabilities	430	558
Total Liabilities	7,160	6,551
Stockholders' Equity	\$ 829.00	\$ 1,170.00
Price / Share	\$ 2.59	\$ 3.66

Valuation as of Bankruptcy petition date		
NOLs carry forward	\$ 2,176.00	Docket 25
Total Assets	\$ 8,569.00	Docket 1
Total assets with NOLs		\$ 9,287.08
Unsecured Obligations	\$ 1,318.00	Docket 1 and 25
Current portion of finance leases and note payable	\$ 1.00	
Operating	\$ 1,108.00	
Secured long term debt (ABL+Term+1st+2nd)	\$ 3,600.00	Docket 25, 18
Deferred taxes	\$ 116.00	
Other liabilities	\$ 430.00	
Total Liabilities	\$ 6,573.00	
Stockholders' Equity	\$ 1,996.00	
Price / Share	\$ 6.24	
Total equity with NOLs		\$ 2,714.08

- Shareholders equity = Total assets – Total liabilities (carried from left side to the right side where applicable.)
- Note Shareholders equity of end of Feb 2020 v/s As of May 15th 2020 (Petition date). Its improved significantly and we are not missing any liabilities in the projections. The asset value reported in Petition is much higher and the unsecured obligation that's filed in petition is lower than reported in end of Feb and the reason for improvement
- NOLs should be accounted into the shareholders equity, as its treated as an asset for the current entity (NOLS value captured at 33% assumed tax rate)

JC Penney's Assets break down

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(Projections, given we don't have the details from JCP yet)

As of the Petition datee	
	in Millions
Current Inventory at cost (WAC)	\$ 2,400.00
Account receivable	\$ 146.00
Credit card receivables	\$ 200.00
ABL assets	\$ 2,746.00
Cash and cash equivalents	386
Prepaid expenses and other	174
Property and equipment, net	3,488
Operating lease assets	998
Prepaid pension	120
Other assets	657
	\$ 8,569.00
Total Assets JCP declared in Docket 1	\$ 8,569.00
Thus the above asset break up lines up with the declared assets in Docket 1 directionally	

JCP Shareholders Asset transfer to Prop-co and Op-co as is w/o BK

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Old JCP entity As of the Petition date	
	in Millions
Current Inventory at cost (WAC)	\$ 2,400.00
Account receivable	\$ 146.00
Credit card receivables	\$ 200.00
ABL assets	\$ 2,746.00
Cash and cash equivalents	\$ 386.00
Prepaid expenses and other	\$ 174.00
Property and equipment, net	\$ 3,488.00
Operating lease assets	\$ 998.00
Prepaid pension	\$ 120.00
Other assets	\$ 657.00
Total Assets	\$ 8,569.00
Current Stockholders' Equity (without operating liabilities) Slide 5	\$ 3,651.00
Total Assets JCP declared in Docket 1	\$ 8,569.00
Thus the above rollforward basis asset break up is approximately lining up with the total assets declared in Docket 1 by the CFO. JCP has yet to share the balance sheet as of the petition date, but the above is a close representation	

New entity projections, As of the Petition date.	
Prop-Co (Property Company)	
Property and equipment, net	\$ 3,488.00
Operating lease assets	\$ 998.00
	\$ 4,486.00
Debt to Equity swap (term \$1.521B , 1st \$0.5B and 2nd lien \$0.4B loan)	\$ 2,421.00
current shareholders equity	\$ 2,065.00

Op-Co (Operations Company)	
ABL assets	\$ 2,746.00
Cash and cash equivalents	\$ 386.00
Prepaid expenses and other	\$ 174.00
Prepaid pension	\$ 120.00
Other assets	\$ 657.00
	\$ 4,083.00
Debt to Equity swap (ABL) \$1.179B and unsecured debt \$1.318B	\$ 2,497.00
current shareholders equity	\$ 1,586.00

Total assets in new CO (per Docket # 1)	\$ 8,569.00
Total stock holders equity transferred from current entity to new entity (matches the equity in the old entity)	\$ 3,651.00

JC Penney Shareholder Assets in Prop-co as is w/o BK

Prop-Co (Property Company)	
Property and equipment, net	\$ 3,488.00
Operating lease assets	\$ 998.00
	\$ 4,486.00
Debt to Equity swap (term \$1.521B , 1st \$0.5B and 2nd lien \$0.4B loan)	\$ 2,421.00
current shareholders equity	\$ 2,065.00

If we were to create the Prop-CO outside of bankruptcy consideration. Here's how the split should look like:

Assumption:

- Real-estate and operating lease assets are moved to Prop-Co (logical segregation) i.e. **\$3.488B and \$0.998B**
- Thus total assets moved to Prop-co = **\$4.486B**
- Term loan debt = \$1.521B, 1st lien = \$0.5B, 2nd lien - \$0.4B = **\$2.421B**
- We are making an assumption that creditors are not going to give away a single penny that JCP owes to them and we will give them 100% of their Debt swapped to equity against the new Prop-co entity.
- (Prop-CO assets) – (Debt/ Equity SWAP) = **\$2.065B**
- **Current Shareholders equity in Prop-co = \$2.065B**

JC Penney Shareholder Assets in Op-co as is w/o BK

Op-Co (Operations Company)	
ABL assets	\$ 2,746.00
Cash and cash equivalents	\$ 386.00
Prepaid expenses and other	\$ 174.00
Prepaid pension	\$ 120.00
Other assets	\$ 657.00
	\$ 4,083.00
Debt to Equity swap (ABL) \$1.179B and unsecured debt \$1.318B	\$ 2,497.00
current shareholders equity	\$ 1,586.00

If we were to create the Op-CO outside of bankruptcy consideration.
Here's how the split should look like:

Assumption:

- ABL assets (Inventory, Credit card receivables, Accounts receivables)
- Cash and cash equivalent
- Prepaid expenses
- Prepaid Pension and
- Other Assets should be transferred to the Op-co. i.e. **\$4.083 B**
- Thus total assets moved to Prop-co = **\$4.083B**
- ABL loan = \$1.179B, Unsecured loan= \$1.218B ; Total =**\$2.497B**
- We are making an assumption that creditors are not going to give away a single penny that JCP owes to them and we will give them 100% of their Debt swapped to equity against the new Ops-co entity.
- (Op-CO assets) – (Debt/ Equity SWAP) = **\$1.586B**
- **Current Shareholders equity in Prop-co = \$1.586B**

Current JCP shareholders Valuation in Props-co and Ops-Co assets

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Prop-Co: based on a baseline valuation of Assets minus Debt to equity swap, Shareholders equity in prop-co = **\$2.065B**

Ops-Co: based on a baseline valuation of Assets minus Debt to equity swap, Shareholders equity in prop-co = **\$1.586B**

Total assets between the two entities = \$3.561B

Operating expenses:

- Deferred taxes = \$0.116
- Other liabilities = \$0.430B
- Operating expenses = \$1.108B
- Current portion of finance leases and note payable = \$0.001B
- **Net Shareholders value after netting the operating expenses = \$1.996B**
- **Price to earning multiple** of the Ops – CO and Prop-Co will change significantly given the new entities will not have any debt any more.
- Current PE = **-0.275**
- **Average PE for Department store** (Big lots = 6.26 , Target = 19.2 , Macy's = 4.5) , but these companies have debt and hence the ratio is a bit low except for Target. Conservatively, we should **expect a PE of 7 or 8** for JCP once its debt free.
- The valuation for net shareholders asset of **\$1.996B** with the revised PE of **7** should be directionally **be \$6~ 7B.** (Evaluation based on the revised PE multiple)
- **Please note, if shareholders equity is wiped out, then the court will hand over \$1.996B of shareholders asset for free to the new entity. It will also destroy the \$6 ~ 7 B in shareholders asset once the entities are debt free and are valued fairly in the market. Destruction of shareholders value to the tune of almost \$7B will be a significant injustice for the shareholders and a reward to the new entity and the JCP management for their fraudulent action. (We should not reward the JC Penney management for their fraudulent activities, but instead hold them accountable)**

JC Penney's Bankruptcy petition to the court is unlike any other petition and should not be viewed with the same historical perspective and should be analyzed in detail before ruling out on any decision on shareholders interest in the current assets and the future entity's assets.

- Asset – Debt = \$3.651B (i.e. significant positive value)
- 2 offers on the table to meet the financing needs leveraging the unencumbered assets. Similar to Macy's recent financing.
- Strong ecomm business model, thus even with few store closure post pandemic, the impact to the total revenue is minimal.
- Business operations has just turned around i.e. \$583M of EBITA in the latest earning. Thus giving up the fruits of all this hard work to the creditors for free is illogical, unless the management is colluding with the creditors and fraudulently trying to steal the shareholders assets in broad day light, and misusing the judiciary procedure to their advantage.

Explore Potential options outside of BK and also legal criminal actions against JCP management for submitting a fraudulent case

- Not a single penny of shareholders equity of about \$3.651B can be transferred out of the current JCP entity.
- **JCP market analysis team, cannot come back and re-evaluate the assets from Current declared assets of \$8.569B to \$4.91B to match the creditors secured / unsecured liability. If the assets are valued lower artificially than the current declared \$8.569B then the court should ignore the market analysis which might be rigged to benefit the debtor to extinguish the shareholders.**
- If the current assets are moved into the new Company (Prop-CO and Ops-CO) to explore the debt to equity swap, then all the \$3.651 B of shareholders equity needs to be accounted against the current shareholder. i.e. swapped for new shares worth \$3.651B in the new entity.
- Additional punitive damages should be paid to the shareholders for dragging them through this fraudulent bankruptcy proceeding and for wasting tax payers money in running the bankruptcy proceeding.
- This appears to be a scheme devised and/or intended to defraud JCP creditors and shareholders, all in violation of **18 U.S.C., Section 157.**
- JCP has been dishonest with the Court, that artifice to defraud, scheme, concealment, false or fraudulent representation, claim or promises concerning its financial condition, actions and intentions, and the United state Trustee and Judge should review this in detail, dismiss the case completely and have JC Penney explore alternatives outside of bankruptcy court and seek legal criminal actions against JCP management and its attorneys and award punitive damages to the shareholders for dragging them through this fraudulent BK process.